IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Richard A. Watson, Jr.	Art Unit	: 2157
Serial No.	: 09/893,693	Examiner	: Emmanuel Coffy
Filed	: June 29, 2001	Conf. No.	: 4959
Title	: ENABLING COMMUNICATIONS OF ELECTRONIC DATA BETWEEN AN INFORMATION REQUESTOR AND A GEOGRAPHICALLY PROXIMATE SERVICE PROVIDER		

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

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I.   Real Party in Interest

America Online, Inc., the assignee of this application, is the real party is interest.

II. Related Appeals and Interferences

There are no related appeals or interferences.

III.   Status of Claims

Claims 30-40, 42-44, and 46-55 are pending and stand rejected, with claims 30, 40, and 42 being independent.

Claims 1-29, 41, and 45 are cancelled.

Claims 56-59 are withdrawn.

Appellants have appealed the rejection of claims 30-40, 42-44, and 46-55.

IV. Status of Amendments

None.

V.   Summary of Claimed Subject Matter

The following summarizes disclosure related to each independent claim with references to the application specification and drawings. The references to the specification and drawings are meant to be exemplary, and not limiting.

Independent claim 30

Independent claim 30 is directed to a method for enabling electronic communications between the Internet and a client system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. The method comprises receiving, at a primary communications system, a request to access the Internet that is directed to the primary communication system, wherein the request is issued by an online identity operating the client system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. The request is processed at the primary communication system. Based on the processed request, a secondary system is identified that is more optimally suited for providing Internet access to the client's system than the primary communications system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. Finally, the client system's configuration is enabled to direct subsequent Internet access requests from the client system and to use the secondary communications system as an access point to the Internet for subsequent data communications between the client system and the Internet, such that the subsequent data communications between the client and the Internet pass through the secondary communications system. See, e.g., specification, p. 17, line 25- p. 18, line 3, p. 18, lines 15-27, p. 19, lines 7-15.

Independent claim 40

Independent claim 40 is directed to a method for enabling electronic communications with the Internet at a client system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. The method comprises submitting a request to access the Internet that is directed to a primary communications system, wherein the request is issued by an online identity operating the client system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. From the primary communication system, an indication is received of a secondary communications system that is more geographically proximate to the geographic

location of the client system than the primary communications system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. The client system is reconfigured to submit future access requests to the secondary communications system based on the indication received. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. Future requests are submitted to access the Internet from the client system to the secondary communications system. In addition, and the client system is reconfigured to direct communications to the Internet, which are subsequent to access from the client system, to the secondary communications system. See, e.g., specification, p. 17, line 25- p. 18, line 3, p. 18, lines 15-27, p. 19, lines 7-15.

Independent claim 42

Independent claim 42 is directed to a method for enabling electronic communications between a client and the Internet at a secondary communications system that is more geographically proximate to a geographic location of the client system than a primary communications system. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. The method comprises receiving an indication from a primary communications system to process requests to access the Internet that are issued by an online identity operating a client system, where the access requests are configured to enable access to the Internet. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. In addition, the method comprises reconfiguring the secondary communications system to process requests to access the Internet from the client system based on the indication received. See, e.g., specification, p. 11, lines 22-30, p. 17, line 25 - p. 18, line 3, p. 18, lines 15-30. Furthermore, the method comprises receiving data communications at the secondary communications system subsequent to Internet access by the client system through the secondary communications system. See, e.g., specification, p. 17, line 25- p. 18, line 3, p. 18, lines 15-27, p. 19, lines 7-15.

VI.   Grounds of Rejection

A.   Claims 30-34, 36-37, 39-40, 42-44, 46 and 48-55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Logan et al. (6,578,066).

B.   Claims 35 and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Logan in view of Loehndorf (6,094,437).

C.   Claims 38 and 50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Logan in view of Raciborski (6,658,000).

VII.   Argument

A.   Claims 30-34, 36-37, 39-40, 42-44, 46 and 48-55 are not anticipated by Logan

Appellants request reversal of the rejection of claims 30-34, 36-37, 39-40, 42-44, 46 and 48-55 because Logan fails to describe or suggest the features of these claims. Specifically, Logan does not describe or suggest receiving a request to access the Internet, and, based on the received request, identifying a secondary communications system that is more optimally suited for providing Internet access to the client's system. Moreover, Logan does not describe or suggest using "the secondary communications system as an access point to the Internet for subsequent data communications between the client system and the Internet, such that the subsequent data communications between the client and the Internet pass through the secondary communications system." (emphasis added).

In general, Logan teaches a system for load-balancing requests for web pages made by client systems, under the assumption that access to the Internet is already granted. See Abstract, FIG. 3. In contrast, Applicant's system deals with distributing requests to "access the Internet" from client systems attempting to obtain Internet access from Online Service Providers, such as America Online or CompuServe.

In greater detail, Logan has no regard for receiving or processing requests to access the Internet. Rather, as stated by the Examiner in the last Final Office Action, Logan describes processing domain name server (DNS) lookup requests when handling attempts by already logged-in clients to view websites. See Final Office Action mailed March 16, 2006, page 3, first paragraph.

Nevertheless, the Examiner has asserted that a DNS query is equivalent to "a request to access the Internet." See Final Office Action mailed March 16, 2006, page 3, third paragraph. Applicant disagrees.

DNS queries are not "requests to access the Internet." Instead, DNS queries are requests to resolve host names to IP addresses. That is, networked computers often have both a host name (e.g., www.cnn.com) and a corresponding 32-bit long, numerical IP address (e.g., 64.236.24.12). A domain name server stores the correspondence between a given host name and

a corresponding IP address. See, e.g., Col. 3, lines 49-66. Logan describes DNS as "the distributed *database* that reconciles host names and IP-addresses on the Internet." See Col. 3, lines 65-66, (emphasis added). Critically, **as a database,** a domain name server is incapable of providing access to the Internet. Instead, it merely enables a user to access a web site based on the site's host name rather than based on a cumbersome IP address. For example, instead of typing in 64.236.24.12 for the URL address, the user can type in "www.cnn.com" in her browser, which will cause the browser to issue a DNS request to resolve www.cnn.com to an IP address. Once "www.cnn.com" is resolved to 64.236.24.12, a browser can open an HTTP connection to the CNN server and start downloading the content from that server. Logan explains the use of DNS queries below:

> In client-Z 102, a domain name server "getByHostname" query is actually issued to a local domain
> name server, asking for the numeric Internet Protocol address (IP-address) that has been registered
> for use with "www.alteon.com". See Col. 4, lines 1-5.

However, to receive a valid response to a DNS query, the user must already have obtained access to the Internet. Without having Internet access (e.g., through an Internet or Online Service Provider), the user will not be able to either use DNS or download content from the CNN's website. Simply issuing a DNS query without having access to the Internet will not enable the user to view web pages. As such, a DNS query is not a request to access the Internet, because the client system must already have Internet access to send meaningful DNS queries and receive meaningful DNS responses from the domain name server.

The presumption of *pre-established* access to the Internet in Logan is further supported by the fact that Logan requires all communications (including DNS queries) from the client 102 to pass **through** the Internet 104 before reaching sites A, B, or C. See Fig. 1 below. These sites contain distributed server switches 106, 108, and 110, which store content and applications accessible to the client 102. See Col. 5, lines 3-5.
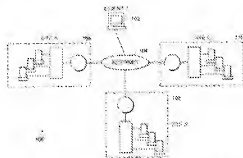

FIG. 1

In the last Final Office Action, the Examiner interpreted the distributed server switch 108 as "the primary communication system," the client 102 as an "online identity operating a client system," and a DNS query as "the request to access the Internet." See Final Office Action mailed March 16, 2006, page 3, third paragraph. Without further debating whether a DNS query is a request to access the Internet, the Examiner's interpretation requires that a client 102 does not have access to the Internet before sending a DNS query; otherwise, it would not have requested to obtain such access. However, as evidenced by FIG. 1 above, the Internet 104 is placed in between the client 102 and the distributed server switch 108. Clearly, a DNS request from the client 102 must pass through the Internet 104 before reaching the distributed server switch 108. Therefore, the DNS request cannot be a request to access the Internet, as the client 102 is required to have access to the Internet 104 to send the DNS request to the distributed server switch 108. See Fig. 1.

In rejecting the independent claims, the Examiner also related the distributed server switches 106, 108, and 110 to the claimed secondary communications system. See Final Office Action mailed March 16, 2006, pages 3-4. However, the Examiner appears to confuse the concept of "access point to the Internet" with the concept of accessing content from a web server. This is evidenced by the Examiner's citation of Col. 5, lines 3-5 to read on the "enabling configuration of the client system to ... use the secondary communications system as an access point to the Internet." The cited text states that "each switch 106, 108, and 110 must each enable client access to the same content and applications, so that a request to any one will result in the same data being given to the client 102." See Col. 5, lines 3-5.

Enabling the client to access/view web content is not sufficient to enable that client to access the Internet through an access point. For all intends and purposes, Logan's distributed server switches are web servers. As taught by Logan, these servers store content, such as web pages and applications. See Col. 5, lines 3-5. As seen from Fig. 1, they do not act as access points to the Internet. Rather, Logan's servers require access as a condition precedent to their service of web pages in satisfaction of web requests.

In contrast, claim 30 requires that secondary communication systems to act as "access point to the Internet." The distinction between the distributed server switches of Logan and secondary communication system of claim 30 is reinforced by the requirement that

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"communications between the client and the Internet [to] pass <u>through</u>" the secondary communication system. However, Logan's distributed server switches 106, 108, and 110 are web servers, which act as the end-points for client-server communications. DNS or web requests do not pass <u>through</u> the server switches, instead <u>they terminate at them</u>. As seen from Fig. 1, the communications between the client 102 and distributed server switches 106, 108, 110 pass through the Internet 104. <u>But, communications between the client 102 and the Internet do not pass through the distributed server switches 106, 108, and 110 – instead the switches are the end-points of the communications.</u>

Therefore, although Logan discloses geographically diverse servers and rerouting of web page requests thereto, Logan fails to provide any disclosure relevant to using "the secondary communications system as an access point to the Internet for subsequent data communications between the client system and the Internet, such that the subsequent data communications between the client and the Internet pass <u>through</u> the secondary communications system", as recited by claim 30.

Finally, the Examiner relied on the "HTTP redirect" command of Logan to demonstrate "subsequent data communications between the client system and the Internet." <u>See</u> Final Office Action mailed March 16, 2006, pages 4. For the reasons similar to the ones discussed above with respect to "access to the Internet" vs. access to web pages, the "HTTP redirect" cannot, in the context of Logan, satisfy this limitation by itself. In Logan, the HTTP redirect is a command issued by a server to the client's browser to retrieve a web page from a different location. <u>See</u> Col. 5, lines 36-44. For example, when the client attempts to view a website "www.cnn.com," the CNN server may issue a redirect to the client's browser to instead retrieve the web page from "www.cnn1.com." However, in Logan, the "HTTP redirect" command is merely a redirect for one web page, but not for "subsequent Internet data communications." Once the client visits a different website, the previously issued "HTTP redirect" command looses all of its effects. Specifically, as soon as the client changes a URL in her browser, the server to which the client was previously redirected will not be utilized. In contrast, claim 30 requires that the client is reconfigured to use "the secondary communications system <u>as an access point to the Internet for subsequent data communications</u>." Therefore, the "HTTP redirect" command is website-specific, and hence, does not reconfigure the client to use "the secondary communications

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system as an access point to the Internet for subsequent data communications between the client system and the Internet."

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the § 102(e) rejection of amended independent claim 30 and its respective dependent claims.

Similarly, independents claims 40 and 42 recite an arrangement in which the secondary communication system acts as an access point[s] to the Internet for subsequent data communications between the client system and the Internet. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 40 and 42 and their respective dependent claims for the reasons discussed above with respect to amended independent claim 30.

B.   Logan in view of Loehndorf/Raciborski

Applicants respectfully request reconsideration and withdrawal of the § 103(a) rejections because neither Loehndorf nor Raciborski remedy the failure of Logan to describe or suggest sending/receiving requests "to access the Internet," as recited by independent claims 30, 40, and 42. Furthermore, Loehndorf and Raciborski also do not to remedy the failure of Logan to describe or suggest providing subsequent Internet access to the client system "through the secondary communications system" as recited by claims 30 and 42. Accordingly, for the reasons discussed above, Applicants respectfully request reconsideration and withdrawal of the § 103(a) rejections.
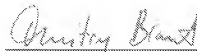
The fee of $950, of which $500 is for the brief fee and $450 is for the two-months extension of time fee, is being paid herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

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Respectfully submitted,

Date: ___10/14/06___

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VIII. Claims Appendix

1-29. (Cancelled)

30. (Previously Presented) A method for enabling electronic communications between the Internet and a client system comprising:

receiving, at a primary communications system, a request to access the Internet that is directed to the primary communication system, wherein the request is issued by an online identity operating the client system;

processing the request at the primary communication system;

identifying, based on the processed request, a secondary communications system that is more optimally suited for providing Internet access to the client's system than the primary communications system; and

enabling configuration of the client system to direct subsequent Internet access requests from the client system and to use the secondary communications system as an access point to the Internet for subsequent data communications between the client system and the Internet, such that the subsequent data communications between the client and the Internet pass through the secondary communications system.

31. (Previously Presented) The method of claim 30, wherein processing the request further comprises:

authenticating the online identity or the client system at the primary communications system.

32. (Previously Presented) The method of claim 30, further comprising enabling configuration of the client system to direct data communications, which are subsequent to access from the client system, to the secondary communications system.

33. (Previously Presented) The method of claim 30, wherein access to the Internet is granted to the client system by the primary communications system.

34. (Previously Presented) The method of claim 30, wherein access to the Internet is granted to the client system by the secondary communications system.

35. (Previously Presented) The method of claim 32, further comprising encapsulating data communications in a tunneling protocol at the secondary communications system.

36. (Previously Presented) The method of claim 32, further comprising determining whether responses to data communications can be satisfied by electronic data stored in a cache at the secondary communications system.

37. (Previously Presented) The method of claim 32, further comprising performing filtering of data communications at the secondary communications system.

38. (Previously Presented) The method of claim 37, wherein the filtering is performed according to contents filtering.

39. (Previously Presented) The method of claim 30, wherein the primary communications system is an online access provider.

40. (Previously Presented) A method for enabling electronic communications with the Internet at a client system, comprising:

submitting a request to access the Internet that is directed to a primary communications system, wherein the request is issued by an online identity operating the client system;

receiving from the primary communications system, an indication of a secondary communications system that is more geographically proximate to the geographic location of the client system than the primary communications system;

reconfiguring the client system to submit future access requests to the secondary communications system based on the indication received;

submitting future requests to access the Internet from the client system to the secondary communications system; and

reconfiguring the client system to direct communications to the Internet, which are subsequent to access from the client system, to the secondary communications system.

41. (Cancelled)

42. (Previously Presented) A method for enabling electronic communications between a client and the Internet at a secondary communications system that is more geographically proximate to a geographic location of the client system than a primary communications system, comprising:

receiving an indication from a primary communications system to process requests to access the Internet that are issued by an online identity operating a client system, where the access requests are configured to enable access to the Internet ;

based on the indication received, reconfiguring the secondary communications system to process requests to access the Internet from the client system ; and

subsequent to Internet access by the client system through the secondary communications system, receiving data communications at the secondary communications system.

43. (Previously Presented) The method of claim 42, further comprising processing access requests at the secondary communications system.

44. (Previously Presented) The method of claim 43, wherein processing access requests further comprises:

authenticating the online identity or the client system at the primary communications system.

45. (Cancelled)

46. (Previously Presented) The method of claim 43, wherein access to the Internet is granted to the client system by the secondary communications system.

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47. (Previously Presented) The method of claim 43, further comprising encapsulating data communications in a tunneling protocol at the secondary communications system.

48. (Previously Presented) The method of claim 43, further comprising determining whether responses to data communications can be satisfied by electronic data stored in a cache at the secondary communications system.

49. (Previously Presented) The method of claim 43, further comprising performing filtering of data communications at the secondary communications system.

50. (Previously Presented) The method of claim 49, wherein the filtering is performed according to contents filtering.

51. (Previously Presented) The method of claim 30, wherein processing the request further comprises determining a geographic location associated with at least one of the online identity and the client system, and wherein the geographic location is used as a basis for configuring the client system to direct subsequent Internet access requests from the client system.

52. (Previously Presented) The method of claim 30, wherein processing the request further comprises accessing a demographic profile of the online identity.

53. (Previously Presented) The method of claim 52, wherein the demographic profile includes client-preferred routing paths.

54. (Previously Presented) The method of claim 52, wherein the demographic profile includes software version of the client system.

55. (Previously Presented) The method of claim 52, wherein the demographic profile includes the type of communication equipment used for Internet access by the client system.

56. (Withdrawn) A method for enabling a client system for faster Internet access at a primary communication system, comprising:

accessing geographic information for one or more geographically distributed network access proxies that each are configured as an access point with respect to an Internet content;

accessing a demographic profile for an online identity that includes geographic information for the online identity;

identifying, based on the demographic profile, a network access proxy to be used in granting access to the subsequent Internet access requests submitted by the online identity; and

configuring the network access proxy to enable access by the online identity to the Internet content in response to subsequent access requests submitted by the online identity.

57. (Withdrawn) The method of claim 51, wherein the demographic profile further includes client-preferred routing paths.

58. (Withdrawn) The method of claim 51, wherein the demographic profile further includes the software version of the client system.

59. (Withdrawn) The method of claim 51, wherein the demographic profile further includes the type of communication equipment used for Internet access by the client system.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.